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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120213124-1066-02]

RIN 0648-XC388

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;  
Reef Fish Fishery of the Gulf of Mexico; 2013 Commercial and  
Recreational Quotas for Red Snapper

AGENCY: National Marine Fisheries Service (NMFS), National  
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule.

SUMMARY: NMFS sets the 2013 commercial and recreational quotas for red snapper in the exclusive economic zone (EEZ) of the Gulf of Mexico (Gulf) through this temporary rule. NMFS has determined that the allowable biological catch (ABC) for red snapper in 2012 has been exceeded. Therefore, NMFS is maintaining the commercial and recreational quotas for red snapper in 2013 at the 2012 level. The intent of this action is to help achieve optimum yield (OY) for the Gulf red snapper resource without increasing the risk of red snapper experiencing overfishing.

DATES: This rule is effective January 1, 2013, through December

31, 2013, unless NMFS publishes a superseding document in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Cynthia Meyer, telephone 727-824-5305; email: [Cynthia.Meyer@noaa.gov](mailto:Cynthia.Meyer@noaa.gov).

SUPPLEMENTARY INFORMATION: NMFS and the Council manage the Gulf reef fish fishery under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The Council prepared the FMP and NMFS implements the FMP through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On May 30, 2012, NMFS published a final rule (77 FR 31734), that in part, set the 2012 commercial quota at 4.121 million lb (1.869 million kg), round weight, and the 2012 recreational quota at 3.959 million lb (1.796 million kg), round weight. NMFS also set the 2013 commercial quota at 4.432 million lb (2.010 million kg), round weight, and the 2013 recreational quota at 4.258 million lb (1.931 million kg), round weight. However, the 2013 quota increases are contingent on the ABC not being exceeded in the 2012 fishing year. NMFS has determined that the 2012 ABC has been exceeded, therefore, NMFS is maintaining the 2012 commercial and recreational quotas in the 2013 fishing year.

The Council is currently developing a 2013 red snapper

regulatory amendment, which could revise the commercial and recreational quotas for red snapper. Any increase in the commercial and recreational quotas would be released during the 2013 fishing year. This means that if the commercial quota is increased, additional pounds of allocation would be released to participants in the Gulf red snapper individual fishing quota (IFQ) program. If the recreational quota is increased, recreational fishermen could see an increase in the length of the 2013 recreational fishing season. If the 2013 regulatory amendment results in a decrease to the commercial and recreational quotas for red snapper, the decrease wouldn't become effective until the 2014 fishing year.

#### Classification

The Regional Administrator, Southeast Region, NMFS, has determined that this temporary rule is necessary for the conservation and management of Gulf red snapper and is consistent with the Magnuson-Stevens Act and other applicable law.

This action is exempt from review under Executive Order 12866 and is exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

The Assistant Administrator for Fisheries, NOAA, (AA),

finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B). Allowing prior notice and opportunity for public comment is unnecessary because the final rule establishing the commercial and recreational quotas for red snapper for the 2012 and 2013 fishing years has already been subject to notice and comment. All that remains is to notify the public that the 2012 quotas will be maintained during the 2013 fishing year. Providing prior notice and opportunity for public comment would also be contrary to the public interest because the red snapper fishing year begins January 1, 2013, and IFQ allocation is released to Gulf red snapper IFQ participants on that date. Commercial red snapper fishermen need to be aware of the entire quota before the fishing year begins to help plan their business practices for the year.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 et seq.

Dated: December 18, 2012

Emily H. Menashes,  
Deputy Director,  
Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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